REMARKS

By the above amendment, the title of the invention has been amended to be more clearly indicative of the claimed invention, and the status of the parent application has been updated to indicate the patented status thereof. Thus, applicants submit that the objection to the disclosure for the informalities as indicated in the Office Action should now be overcome.

Additionally, by the present amendment, claims 1-16 have been canceled and new claims 17-21 have been presented, wherein claims 17 and 20 are independent claims reciting features of the present invention corresponding to features previously presented with additional features as will be described below. Applicants submit that independent claims 17 and 20 and the dependent claims thereof patentably distinguish over the cited art, as will become clear from the following discussion.

Applicants note that new independent claims 17 and 20 recite features corresponding to the features of claims 1-16, while further reciting additional characteristics of the present invention as described at page 3, lines 6-14, for example, and the original claims of the parent application. That is, as described in the specification of this application, the present invention is directed to a liquid crystal display in which a so-called blue fog phenomenon is restrained. In accordance with the present invention, as described at page 2, lines 23 to page 3, line 14 of the specification and original claim 2 of the parent application, an absorber is provided in the form of a filter for absorbing the component of the light have a wavelength which is not more than 440 nm and having a permeability for the component of wavelength not more than 440 nm which is smaller than a permeability for another component of the light having a wavelength which is not less than 450 nm. It is noted that the absorber which may be in the form of a band-pass or color filter arranged between the light source and the viewer as represented by the absorber or filters 40, 41 in various embodiments of the present invention, enable an improved liquid crystal

display as described. Applicants note in accordance with the present invention, the color filter includes a portion having an agent for absorbing the component light having the wavelength which is not more than 440 nm and having the other characteristics as described. Applicants submit that such features as recited in independent claims 17 and 20 and the dependent claims are not disclosed in the cited art.

The rejection of claims 1-9, 12-14 and 16 under 35 U.S.C. 103(a) as being unpatentable over Komatsu, US 2001/0002146 in view of Lee, US 2001/0038425; the rejection of claim 10 under 35 U.S.C. 103(a) as being unpatentable over Komatsu and Lee in view of Teng et al, (Teng), USPAT 5,834, 122; the rejection of claim 11 under 35 U.S.C. 103(a) as being unpatentable over Komatsu and Lee and in view of Sunamori et al, (Sunamori), USPAT 5,568,267; the rejection of claim 15 under 35 U.S.C. 103(a) as being unpatentable over Komatsu and Lee and in view of Kanzaki et al, (Kanzaki), JP 2-97992; and the rejection of claims 1-16 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-16 of U.S. Patent No. 6,646,699, such rejections are considered to be obviated by the cancellation of claims 1-16 and the presentation of new claims 17-21 herein. Insofar as such rejections are applicable to the present claims, such rejections are traversed, and reconsideration and withdrawal thereof are respectfully requested.

As to the requirements to support a rejection under 35 U.S.C. 103, reference is made to the decision of In re Fine, 5 USPQ 2d 1596 (Fed. Cir. 1988), wherein the court pointed out that the PTO has the burden under §103 to establish a prima facie case of obviousness and can satisfy this burden only by showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references. As noted by the court, whether a particular combination might be "obvious to try" is not a

legitimate test of patentability and obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination. As further noted by the court, one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention.

Furthermore, such requirements have been clarified in the recent decision of In re Lee, 61 USPQ 2d 1430 (Fed. Cir. 2002) wherein the court in reversing an obviousness rejection indicated that deficiencies of the cited references cannot be remedied with conclusions about what is "basic knowledge" or "common knowledge". The court pointed out:

> The Examiner's conclusory statements that "the demonstration mode is just a programmable feature which can be used in many different device[s] for providing automatic introduction by adding the proper programming software" and that "another motivation would be that the automatic demonstration mode is user friendly and it functions as a tutorial" do not adequately address the issue of motivation to combine. This factual question of motivation is immaterial to patentability, and could not be resolved on subjected belief and unknown authority. It is improper, in determining whether a person of ordinary skill would have been led to this combination of references, simply to "[use] that which the inventor taught against its teacher."... Thus, the Board must not only assure that the requisite findings are made, based on evidence of record, but must also explain the reasoning by which the findings are deemed to support the agency's conclusion. (emphasis added)

Turning first to Komatsu, the Examiner recognizes that "Komatsu differs from the claimed invention because he does not explicitly disclose a band-pass filter that absorbs a component of light, a wavelength of which component is not more than 440 nm, and is arranged between a light source and the viewer" (emphasis added). In order to overcome this recognized deficiency of Komatsu, the Examiner cites Lee contending that "Lee shows a filter that is placed between a light source and a

viewer (Fig. 2). Lee also discloses that filters are useful for filtering out predetermined wavelengths of light emitted by a light source (paragraph 0008). Lee also discloses that filters (240) filters out undesirable wavelengths of light by preventing light wavelength exceeding a predetermined wavelength from passing through the filter (paragraph 0022)."

The Examiner concludes "Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the display device of Komatsu such that employing a filter (applicant's band-pass filter) between the light source and the viewer so that undesirable wavelengths of light (such as less than 440 nm) is absorbed by the filter and a display with better contrast is obtained." (emphasis added)

Irrespective of the position set forth by the Examiner, neither Komatsu nor Lee disclose absorbing a component of the light having a wavelength which is not more than 440 nm, as recited in the claims of this application. More particularly, while Lee discloses a filter 240 for preventing light wavelength exceeding a predetermined wavelength from passing through the filter, in paragraph [0024] thereof, such filter 240 is described as a high pass filter which cuts off light having a wavelength longer than 600 nanometers, with such limitation of 600 nanometers being recited in claim 4 thereof. Thus, Lee does not disclose absorption of a component of light having a wavelength not more than 440 nm, as recited in the claims of this application. Applicants submit there is no disclosure or teaching in Komatsu or Lee of an absorber, whatever the form of the absorber, for absorbing a component of light having a wavelength which is not more than 440 nm. Applicants submit that the Examiner's reference to a wavelength of 440 nm, as claimed, represents a hindsight reconstruction attempt of the present invention utilizing the principle of "obvious to try" which is not the standard of 35 U.S.C. 103. See In re Fine, supra. Additionally, any contention concerning obviousness or well known wavelengths as apparently

utilized by the Examiner is contrary to the disclosure of Komatsu and Lee and is contrary to the decision of In re Lee, supra. Thus, applicants submit that all claims reciting the aforementioned wavelength patentably distinguish over this art in the sense of 35 U.S.C. 103 and all claims should be considered allowable thereover.

Applicants note that independent claims 17 and 20 and the dependent claims of this application also recite the feature of the absorber having the characteristic of a permeability for the component of wavelength of light of not more than 440 nm being smaller than a permeability for another component of light having a wavelength which is not less than 450 nm, and applicants submit that neither Lee nor Komatsu disclose or teach such features in the sense of 35 U.S.C. 103, such that all claims should be considered allowable over this combination of references in the sense of 35 U.S.C. 103.

As to the cited art of Teng et al, Sunamori et al and Kanzaki et al, irrespective of the Examiner's contentions concerning such references, applicants submit that these references fail to disclose the characteristics of the absorber, as recited in the independent and dependent claims of this application, in the form of a band-pass filter or color filter, and these references also fail to overcome the deficiencies of Komatsu and Lee in the sense of 35 U.S.C. 103, such that all claims patentably distinguish thereover.

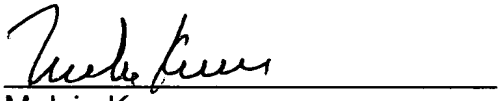
With regard to the obviousness-type double patenting rejection, as recognized by the Examiner, such rejection can be overcome by the filing of a Terminal Disclaimer. In order to expedite the prosecution of this application without acquiescing in the propriety of the rejection as set forth by the Examiner, applicants submit herewith a Terminal Disclaimer and the appropriate fee therefor, such that this rejection should now be overcome.

In view of the above amendments and remarks and the submission of the Terminal Disclaimer, applicants submit that all claims present in this application

should now be in condition for allowance, and issuance of an action of a favorable nature is courteously solicited.

To the extent necessary, applicant's petition for an extension of time under 37 CFR 1.136. Please charge any shortage in the fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 01-2135 (500.40673CX1) and please credit any excess fees to such deposit account.

Respectfully submitted,



Melvin Kraus
Registration No. 22,466
ANTONELLI, TERRY, STOUT & KRAUS, LLP

MK/cee
(703) 312-6600